IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.961 OF 2004.

WITH

CRIMINAL APPLICATION NO.3373 OF 2004

The State of Maharashtra : Appellant.

versus.

Rangnath Sakharam Kalekar & ors.: Respondents.

Mr.B.R.Patil, Acting PP, for the State.

CORAM : D.G.DESHPANDE,J.

DATED : 24th August 2004.

P.C.

1. This appeal is filed against acquittal of the accused under Sections 324, 325, 504 and 506 r/w 34 of the Indian Penal Code. The accused were acquitted by the Judicial Magistrate, First Class, Khed, by his judgment dated 23.3.2000. This appeal is filed in 2004 along with the application for condonation of delay of 1506

days. When such inordinate delay is caused in such a trivial matter, it was found necessary to hear the APP on merits of the matter.

2. The prosecution story is that complainant Kamal Shinde was the residing at Kadus, Shendewadi Tal.Khed Dist.Pune along with father-in-law, sons and daughters. On the date of incident i.e. on 05.08.1997, at about 2.30 p.m. the complainant along with her father-in-law, brother-in-law, PW.3 Sunder Panmand, PW 4 Subhadra Panmand and sister-in-law were harvesting bajara crop in the field of her father-in-law. At that time accused Nos. 1 to 4 came there with their cattles. They entered in the complainant's field and started grazing the reserved grass. When PW.2 brother-in-law of the complainant had asked and objected the accused regarding the same, accused No.2 Ramdas and accused No.1 Ranganath had attacked him with axe stick and stick respectively. The complainant and her son Raghunath rushed to rescue the PW.2. At that time accused Nos. 1 and 2 attacked them with stick and axe stick. The complainant received injuries on her wrist, back, left arm and left thing. On seeing the attack on the

complainant, PW-4 Subhadra and PW-3 Sunderbai rushed there. They were also attacked by the accused No.3 with armed stick. Complainant's sister-in-law Savindra also came there and she was attacked by accused No.4 with armed stick. Thereafter all the accused Nos. 1 to 4 threatened them and then went towards well situated in the field and removed the tin located on electric motor. The accused also abused them and then left the place. Thereafter a complaint came to be lodged at Khed Police Station. After investigation a charge-sheet was filed against all the accused. The prosecution has examined in all 7 witnesses. And after appreciation the evidence on record the trial acquitted the accused as stated above. Hence this appeal.

3. The judgment of acquittal is based on sound reasoning. There is no perversity. The evidence has been properly appreciated and rejected. The trial Court found that the investigation was one sided favouring to the complainant and therefore benefit of doubt was required to be given to the accused. The prosecution has not examined the panch witnesses to the seizure panchnama. Admittedly, a civil

litigation is pending between the parties. Injuries are absolutely minor and simple in nature. And therefore, when there is no merits in this matter, issuance of notice of the application for condonation of delay is not necessary. Hence the appeal is dismissed. In view of this, the criminal application does not survive, it is disposed of.

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